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Message Text

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USIAEA

DEPT PASS IO/SCT

E.O. 11652: N/A
TAGS: PARM, TECH, MNUC, IAEA, AR, PE, US
SUBJECT: U.S. FUEL FOR ARGENTINA REACTOR LOAN TO PERU:
QUADRILATERAL SUPPLY AGREEMENT

1. FOLLOWING IS DRAFT TEXT DEVELOPED AD REFERENDUM IN
QUADRILATERAL DISCUSSIONS JANUARY 25 REPORTED SEPTEL:

"AGREEMENT BETWEEN THE GOVERNMENTS OF THE ARGENTINE REPUBLIC,
- THE REPUBLIC OF PERU, THE UNITED STATES OF AMERICA
- AND THE INTERNATIONAL ATOMIC ENERGY AGENCY,
- CONCERNING THE TRANSFER OF ENRICHED URANIUM
- FOR A ZERO POWER RESEARCH REACTOR

"WHEREAS THE GOVERNMENT OF THE REPUBLIC OF PERU HAS MADE
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ARRANGEMENTS WITH THE GOVERNMENT OF THE ARGENTINE REPUBLIC
FOR THE TRANSFER OF A ZERO POWER RESEARCH REACTOR AND THE FUEL
ELEMENTS FOR SUCH REACTOR;

"WHEREAS, UNDER THE CO-OPERATION AGREEMENT BETWEEN THE GOVERNMENT
OF THE ARGENTINE REPUBLIC AND THE GOVERNMENT OF THE UNITED
STATES OF AMERICA CONCLUDED ON 29 JUNE 1969 (HEREINAFTER

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CALLED THE "ARGENTINA-UNITED STATES CO-OPERATION AGREEMENT")
THE UNITED STATES SOLD ENRICHED URANIUM TO ARGENTINA, AND
ITS TRANSFER BEYOND THE JURISDICTION OF THE GOVERNMENT OF
THE ARGENTINE REPUBLIC IS SUBJECT TO THE TERMS OF THAT AGREEMENT;
"WHEREAS THE FUEL ELEMENTS THE GOVERNMENT OF THE ARGENTINE REPUBLIC
INTENDS TO PROVIDE FOR THE SAID REACTOR HAVE BEEN MANUFACTURED
WITH ENRICHED URANIUM OF UNITED STATES ORIGIN BOUGHT BY THE
GOVERNMENT OF THE ARGENTINE REPUBLIC PURSUANT TO THE ARGENTINA-
UNITED STATES CO-OPERATION AGREEMENT;

"WHEREAS THE GOVERNMENT OF THE REPUBLIC OF PERU HAS REQUESTED
THE ASSISTANCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY
(HEREINAFTER CALLED 'THE AGENCY') IN SECURING THE SPECIAL
FISSIONABLE MATERIAL CONTAINED IN THE FUEL ELEMENTS FOR THE
ZERO POWER RESEARCH REACTOR;

"WHEREAS THE AGENCY AND THE GOVERNMENT OF THE UNITED STATES OF
AMERICA ON 11 MAY 1959 CONCLUDED AN AGREEMENT FOR CO-OPERATION,
AS AMENDED ON 12 FEBRUARY 1974 (HEREINAFTER CALLED THE 'UNITED
STATES-IAEA CO-OPERATION AGREEMENT');

"WHEREAS THE GOVERNMENT OF THE REPUBLIC OF PERU ON ... CONCLUDED
WITH THE AGENCY AN AGREEMENT FOR THE APPLICATION OF SAFEGUARDS
IN CONNECTION WITH THE TREATY FOR THE PROHIBITION OF NUCLEAR
WEAPONS IN LATIN AMERICA AND THE TREATY ON THE NON-PROLIFERATION
OF NUCLEAR WEAPONS.
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"WHEREAS THE GOVERNMENT OF THE REPUBLIC OF PERU AND THE AGENCY
ARE THIS DAY CONCLUDING AN AGREEMENT FOR THE PROVISION BY THE
AGENCY OF THE ASSISTANCE REQUESTED BY THE GOVERNMENT OF THE
REPUBLIC OF PERU (HEREINAFTER CALLED 'THE PROJECT AGREEMENT');

"NOW, THEREFORE, THE GOVERNMENTS OF THE ARGENTINE REPUBLIC, THE
REPUBLIC OF PERU AND THE UNITED STATES OF AMERICA AND THE
AGENCY AGREE AS FOLLOWS:

- ARTICLE I

- SUPPLY OF ENRICHED URANIUM

"SECTION 1. THE GOVERNMENT OF THE ARGENTINE REPUBLIC SHALL,
SUBJECT TO THE PROVISIONS OF THE ARGENTINE-UNITED STATES
CO-OPERATION AGREEMENT, TRANSFER TO THE AGENCY AND THE AGENCY
SHALL, SUBJECT TO THE UNITED STATES-IAEA CO-OPERATION
AGREEMENT, RETRANSFER TO PERU APPROXIMATELY 14.785.90 GRAMS
OF URANIUM, PROPERTY OF THE ARGENTINE REPUBLIC AND OF UNITED
STATES ORIGIN, ENRICHED TO APPROXIMATELY 20.09 PERCENT BY
WEIGHT IN THE ISOTOPE 235, CONTAINED IN FUEL ELEMENTS

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(HEREINAFTER CALLED THE 'SUPPLIED MATERIAL') FOR THE RESEARCH REACTOR. IT IS UNDERSTOOD THAT THESE TRANSFERS SHALL NOT AFFECT OWNERSHIP OF THE SUPPLIED MATERIAL, AND OWNERSHIP SHALL AT ALL TIMES REST WITH THE GOVERNMENT OF THE ARGENTINE REPUBLIC.
"SECTION 2. THE GOVERNMENT OF THE UNITED STATES OF AMERICA HEREBY APPROVES SHALL APPROVE THE TRANSFER ABOVE DESCRIBED, PURSUANT TO THE ARGENTINA-UNITED STATES CO-OPERATION AGREEMENT AND THE UNITED STATES-IAEA CO-OPERATION AGREEMENT.

"SECTION 3. THE GOVERNMENT OF THE REPUBLIC OF PERU UNDERTAKES

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THAT THE SUPPLIED MATERIAL SHALL NOT BE RETRANSFERRED BEYOND ITS JURISDICTION UNLESS OTHERWISE AGREED BY THE PARTIES TO THIS AGREEMENT, PROVIDED THAT THE SUPPLIED MATERIAL WILL BE AUTOMATICALLY RETURNED TO THE ARGENTINE REPUBLIC SUBJECT TO THE ARGENTINE-UNITED STATES CO-OPERATION AGREEMENT.

- ARTICLE II

- SHIPMENT OF THE SUPPLIED MATERIAL

"SECTION 4. ALL ARRANGEMENTS FOR THE EXPORT FROM THE ARGENTINE REPUBLIC OF THE SUPPLIED MATERIAL, SHALL BE THE RESPONSIBILITY OF THE GOVERNMENTS OF THE ARGENTINE REPUBLIC AND OF THE REPUBLIC OF PERU. PRIOR TO THE EXPORT OF ANY PART OF SUCH MATERIAL, THE GOVERNMENT OF THE ARGENTINE REPUBLIC SHALL

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NOTIFY THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE AGENCY OF THE AMOUNT THEREOF AND OF THE DATE, PLACE AND METHOD OF SHIPMENT.

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- ARTICLE III

- COMPETENCE OF THE PARTIES

"SECTION 5. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND THE PROJECT AGREEMENT THE TERMS AND CONDITIONS IN CONNECTION WITH THE TRANSFER OF THE SUPPLIED MATERIAL ARE EXCLUSIVELY INCUMBENT UPON THE GOVERNMENT OF THE ARGENTINE REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF PERU.

- ARTICLE IV

- TRANSPORT, HANDLING AND USE

"SECTION 6. THE GOVERNMENT OF THE ARGENTINE REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF PERU SHALL TAKE ALL APPROPRIATE MEASURES TO ENSURE THE SAFE TRANSPORT, HANDLING AND USE OF THE SUPPLIED MATERIAL. AFTER EXPORT FROM THE ARGENTINE REPUBLIC, THOSE WILL BE THE RESPONSIBILITY OF THE GOVERNMENT OF THE REPUBLIC OF PERU.

"SECTION 7. NEITHER THE GOVERNMENT OF THE UNITED STATES OF AMERICA NOR THE AGENCY WARRANTS THE SUITABILITY OR FITNESS OF THE SUPPLIED MATERIAL FOR ANY PARTICULAR USE OR APPLICATION.

"SECTION 8. NEITHER THE GOVERNMENT OF THE ARGENTINE REPUBLIC, THE GOVERNMENT OF THE UNITED STATES OF AMERICA NOR AGENCY, SHALL AT ANY TIME BEAR ANY RESPONSIBILITY TOWARDS THE GOVERNMENT OF THE REPUBLIC OF PERU OR ANY PERSON FOR THE SAFE HANDLING AND USE OF THE SUPPLIED MATERIAL OR ANY CLAIMS ARISING OUT OF THE TRANSPORT, HANDLING OR USE OF THE SUPPLIED MATERIAL BY THE GOVERNMENT OF THE REPUBLIC OF PERU.

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- ARTICLE V

- AGENCY SAFEGUARDS

"SECTION 9. THE GOVERNMENT OF THE REPUBLIC OF PERU UNDERTAKES

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THAT NONE OF THE FOLLOWING MATERIAL SHALL BE USED FOR THE MANUFACTURE OF ANY NUCLEAR WEAPON OR TO FURTHER ANY OTHER MILITARY PURPOSE OR FOR THE MANUFACTURE OF ANY OTHER NUCLEAR EXPLOSIVE DEVICE OR FOR RESEARCH ON OR THE DEVELOPMENT OF ANY NUCLEAR WEAPON OR ANY OTHER NUCLEAR EXPLOSIVE DEVICE:

(A) THE SUPPLIED MATERIAL;

(B) ANY SPECIAL FISSIONABLE MATERIAL PRODUCED IN OR BY THE USE OF THE SUPPLIED MATERIAL, INCLUDING SUBSEQUENT GENERATIONS OF PRODUCED SPECIAL FISSIONABLE MATERIAL.

"SECTION 10. THE AGENCY SHALL APPLY SAFEGUARDS TO THE NUCLEAR MATERIAL REFERRED TO IN SECTION 9 ABOVE IN ACCORDANCE WITH THE PROVISIONS OF THE PROJECT AGREEMENT.

"SECTION 11. THE GOVERNMENT OF THE REPUBLIC OF PERU SHALL PERMIT THE AGENCY AND THE AGENCY UNDERTAKES TO INFORM THE GOVERNMENT OF THE ARGENTINE REPUBLIC AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA OF THE STATUS OF ALL INVENTORIES OF ANY MATERIALS REQUIRED TO BE SAFEGUARDED UNDER THIS AGREEMENT SHOULD THE GOVERNMENT OF THE ARGENTINE REPUBLIC OR THE GOVERNMENT OF THE UNITED STATES OF AMERICA SO REQUEST.

- ARTICLE VI

- SAFETY STANDARDS AND MEASURES

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"SECTION 12. THE SAFETY STANDARDS AND MEASURES SPECIFIED IN THE PROJECT AGREEMENT SHALL APPLY, TO THE EXTENT RELEVANT, TO THE NUCLEAR MATERIAL SUBJECT TO THE PRESENT AGREEMENT.

- ARTICLE VII

- PHYSICAL PROTECTION

"SECTION 13. THE GOVERNMENT OF THE REPUBLIC OF PERU UNDERTAKES THAT ADEQUATE PHYSICAL PROTECTION SHALL BE MAINTAINED WITH RESPECT TO THE SUPPLIED MATERIAL AND WITH RESPECT TO ANY SPECIAL FISSIONABLE MATERIAL PRODUCED THROUGH THE USE OF THE SUPPLIED MATERIAL.

"SECTION 14. THE PARTIES AGREE TO THE LEVELS FOR THE APPLICATIONS OF PHYSICAL PROTECTION SET FORTH IN THE ANNEX TO THIS AGREEMENT. THE GOVERNMENT OF THE REPUBLIC OF PERU SHALL MAINTAIN ADEQUATE PHYSICAL PROTECTION MEASURES IN ACCORDANCE WITH SUCH LEVELS.
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THESE MEASURES SHALL AS A MINIMUM PROVIDE PROTECTION COMPARABLE TO THAT SET FORTH IN AGENCY DOCUMENT INFCIRC/225/REV.1. ENTITLED 'THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL', AS IT MAY BE REVISED FROM TIME TO TIME.
- ARTICLE VIII

- SETTLEMENT OF DISPUTES

"SECTION 15. ANY DISPUTE ARISING OUT OF THE INTERPRETATION OR IMPLEMENTATION OF THIS AGREEMENT, WHICH IS NOT SETTLED BY NEGOTIATION OR AS MAY OTHERWISE BE AGREED BY THE PARTIES CONCERNED, SHALL ON THE REQUEST OF ANY SUCH PARTY BE SUBMITTED TO AN ARBITRAL TRIBUNAL COMPOSED AS FOLLOWS: EACH PARTY TO THE DISPUTE SHALL DESIGNATE ONE ARBITRATOR AND THE ARBITRATORS SO DESIGNATED SHALL BY UNANIMOUS DECISION ELECT AN ADDITIONAL ARBITRATOR, WHO SHALL BE THE CHAIRMAN. IF THE NUMBER OF ARBITRATORS SO SELECTED IS EVEN, THE PARTIES TO THE DISPUTE SHALL BY UNANIMOUS DECISION ELECT AN ADDITIONAL ARBITRATOR. IF WITHIN THIRTY (30) DAYS OF THE REQUEST FOR ARBITRATION ANY PARTY TO THE DISPUTE HAS NOT DESIGNATED AN ARBITRATOR, ANY OTHER PARTY TO THE DISPUTE MAY REQUEST THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE TO APPOINT THE NECESSARY NUMBER OF ARBITRATORS. THE SAME PROCEDURE SHALL APPLY IF WITHIN THIRTY (30) DAYS OF THE DESIGNATION OR APPOINTMENT OF THE ARBITRATORS, THE CHAIRMAN OR ANY REQUIRED ADDITIONAL ARBITRATOR HAS NOT BEEN ELECTED. A MAJORITY OF THE MEMBERS OF THE ARBITRAL TRIBUNAL SHALL CONSTITUTE A QUORUM, AND ALL DECISIONS SHALL BE MADE BY MAJORITY

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VOTE. THE ARBITRAL PROCEDURES SHALL BE ESTABLISHED BY THE TRIBUNAL, WHOSE DECISIONS, INCLUDING ALL RULINGS CONCERNING ITS CONSTITUTION, PROCEDURE, JURISDICTION AND THE DIVISION OF THE EXPENSES OF ARBITRATION BETWEEN THE PARTIES TO THE DISPUTE, SHALL BE FINAL AND BINDING ON ALL THE PARTIES CONCERNED. THE REMUNERATION OF THE ARBITRATORS SHALL BE LIMITED OFFICIAL USE

DETERMINED ON THE SAME BASIS AS THAT OF AD HOC JUDGES OF THE INTERNATIONAL COURT OF JUSTICE.

"SECTION 16. ANY DECISION OF THE BOARD CONCERNING THE IMPLEMENTATION OF ARTICLES V OR VI SHALL, IF THE DECISION SO PROVIDES, BE GIVEN EFFECT IMMEDIATELY BY THE GOVERNMENT OF THE REPUBLIC OF PERU AND THE AGENCY PENDING THE FINAL SETTLEMENT OF ANY DISPUTE.

- ARTICLE IX

- ENTRY INTO FORCE

"SECTION 17. THIS AGREEMENT SHALL ENTER INTO FORCE UPON THE SIGNATURE BY THE AUTHORIZED REPRESENTATIVES OF THE GOVERNMENTS OF THE ARGENTINE REPUBLIC, THE REPUBLIC OF PERU AND THE UNITED STATES OF AMERICA AND BY OR FOR THE DIRECTOR GENERAL OF THE AGENCY.

"SECTION 18. THIS AGREEMENT SHALL CONTINUE IN EFFECT SO LONG AS ANY NUCLEAR MATERIAL SUBJECT TO THIS AGREEMENT REMAINS IN THE TERRITORY OF THE REPUBLIC OF PERU OR UNDER THE JURSIDICTION OF THE GOVERNMENT OF THE REPUBLIC OF PERU OR UNDER ITS CONTROL ANYWHERE, OR UNTIL SUCH TIME AS THE PARTIES AGREE THAT SUCH MATERIAL IS NO LONGER USABLE FOR ANY NUCLEAR ACTIVITY RELEVANT FROM THE POINT OF VIEW OF SAFEGUARDS.

"DONE IN VIENNA, THIS ....., IN QUADRUPLICATE IN THE ENGLISH AND SPANISH LANGUAGES, THE TEXT IN BOTH LANGUAGES BEING EQUALLY AUTHENTIC."

- "ANNEX"

NOTE: ANNEX TEXT IS SAME AS IN U.S. DRAFT, EXCEPT REFERENCE

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IN OPENING PHRASE IS TO ARTICLE VII.

2. AS EXPLAINED SEPTEL, BRACKETED PHRASES IN TEXT OF ARTICLE I, SECTION 2, REFLECT RESERVATION BY MISSION RE "HEREBY APPROVES" FORMULATION. ENTIRE SECTION IS ALSO BRACKETED, SINCE IT WAS RECOGNIZED THAT IF USG CAN AGREE TO "HEREBY APPROVES" FORMULATION, SECTION IS UNNECESSARY. BRACKETED PHRASE IN ARTICLE I SECTION 3 REFLECTS MISSION RESERVATION RE ACCEPTABILITY THAT PROVISION AS DISCUSSED SEPTEL. STONE

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